

Remarks

Upon entry of this amendment, claims 1-6 and 8-21 will be pending in the application. Claims 1 and 11 are amended, support being found as noted below. New claims 13-21 are being added, support being found in original claims 2 and 4 and in the specification at page 5, lines 1-4 and 28, page 6, line 6 and page 7, lines 1-4. Claims 2 and 4 are amended to recite the stated embodiments, the other original embodiments now being set forth in new claims 14-18. Idiomatic revisions are being made to claims 1 and 9. No new matter is being added.

Rejection under 35 USC 112, 1st paragraph

On pages 2-8, the Examiner rejects claim 11 under 35 USC 112, 1st paragraph. The Examiner states that the specification is enabling for a method of treating a bacterial infection due to Gram-positive organisms selected from *Staphylococcus aureus*, *Staphylococcus epidermidis*, *Streptococcus pneumoniae*, *Streptococcus pyogenes*, *Enterococcus faecalis*, *Enterococcus faecium*, and Gram-negative organisms selected from *Haemophilus influenzae*, *E. coli*, and *Moraxella catarrhalis* Ravasio. However, the Examiner posits that the specification does not reasonably provide enablement for a method of treating bacterial infections generally.

Solely to advance prosecution, Applicants have amended claim 11 to recite the organisms *Staphylococcus aureus*, *Staphylococcus epidermidis*, *Streptococcus pneumoniae*, *Streptococcus pyogenes*, *Enterococcus faecalis*, *Enterococcus faecium*, *Haemophilus influenzae*, *E. coli*, and *Moraxella catarrhalis*. Support for this amendment is found in the specification at page 22, lines 11-33. Applicants reserve the right to pursue the canceled subject matter in a continuing application.

Applicants respectfully submit that one skilled in the art would be able to make and use the invention of claim 11 as amended without undue experimentation. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 USC 112, 2nd paragraph

On page 8 of the Office Action, claims 1-6 and 10-12 are rejected under 35 USC 112, 2nd paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner posits that the term "acyl" in claim 1 is indefinite, asking what the term embraces and what the stem looks like.

Solely to advance prosecution, Applicants have amended claim 1 to define the term acyl to mean a formyl or a (C₁₋₆)alkylcarbonyl group. Support for this amendment is found on page 10, line 22 of the specification. Applicants submit that this amendment renders the rejection moot.

Objection

On page 9 of the Office Action, claims 8 and 9 are objected to as being dependent upon a rejected base claim, but are said to be allowable if rewritten in independent form including all of the limitations of the base and any intervening claims.

Applicants thank the Examiner for indicating allowable subject matter in the application. In view of the above remarks Applicants submit that claim 1, from which claims 8 and 9 depend, is allowable. Accordingly, dependent claims 8 and 9 are believed to be allowable.

Specification

On page 9 of the Office Action, the Examiner indicates that the specification needs to be amended to mention the PCT linkage to the provisional application in the priority claim.

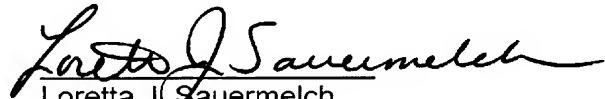
The preliminary amendment filed on May 2, 2005 in the present application amended the specification by inserting before the first line of the specification a paragraph claiming benefit to U.S. Provisional Application No. 60/423,872 filed November 5, 2002. In accordance with the Examiner's suggestion, that paragraph is being amended to include recitation of the PCT application from which this application derives. No new matter is added.

Conclusion

Each of the issues raised by the Examiner has been addressed. The application is believed to be in condition for allowance, and a Notice of Allowance in the next Office Action is earnestly solicited.

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Respectfully submitted,

A handwritten signature in black ink, reading "Loretta J. Sauermelch". The signature is fluid and cursive, with the first name "Loretta" and last name "Sauermelch" clearly distinguishable.

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